

Hearing Date: August 17, 2022 at 9:30AM (Atlantic Standard Time)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO,

as representative of

THE COMMONWEALTH OF PUERTO
RICO, *et al.*
Debtors.¹

PROMESA
Title III

NO. 17-BK-3283 (LTS)

(Jointly Administered)

**RESPONSE AND RESERVATION OF RIGHTS IN CONNECTION WITH FOUR
HUNDRED EIGHTY-FIRST OMNIBUS OBJECTION (SUBSTANTIVE) OF THE
COMMONWEALTH OF PUERTO RICO
TO CLAIMS FOR WHICH THE DEBTORS ARE ALLEGEDLY NOT LIABLE**

TO THE HONORABLE COURT:

COMES NOW creditors Luis Manuel Ramírez-Pérez and José Luis Ramírez-Pérez (hereinafter “Creditors”), through the undersigned counsel, and respectfully state and pray as follows:

1. On June 29, 2018 Creditors timely filed Proof of Claim (“POC”) No. 87279 against debtor the Commonwealth of Puerto Rico (the “Commonwealth”) in the amount of \$5,000.00. *See* POC No. 87279.

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566- LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”, and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801).

2. POC No. 87279 involves an extrajudicial settlement agreement between Francisca Pérez Miray (RIP), predecessor in interest and deceased mother of the Creditors (her heirs) and the Puerto Rico Maritime Transportation Authority (“MTA”).²

3. Debtor’s objection to POC No. 87279 states the following in connection with said objection : “Reason: Proof of Claim purports to assert liability on the basis of litigation. The case files show, however, that the claimant’s suit was not brought against the Commonwealth or any other Title III Debtor.” See Docket No. 21427-1 at 6.

4. It must be noted that the POC No. 87279 is not the result of litigation but of a settlement. In any event, the relevant inquiry is whether the MTA is a debtor or considered part of the Commonwealth as a debtor in these Title III cases.

5. For years since these Title III cases began and after the filing of the relevant POC, the undersigned has tried to receive some clarity from the Financial Oversight Management Board’s (“FOMB’s”) counsel regarding who is and is not a debtor in these Title III proceedings. In response, the FOMB’s counsel provided the undersigned with the attached chart, which allegedly lists entities that comprise the Central Government. **Exhibit 1**. While the MTA is not on the attached list, this list contains a very important caveat: “AAFAF, the Central Government, and each of their respective officers, directors, employees, agents, attorneys, advisors, members, partners or affiliates **make no representation or warranty, express or implied, to any third party with respect to the information contained herein and all such parties expressly disclaim any such representations or warranties.**” **Exhibit 1** (emphasis ours).

6. In other words, to this date, more than 4 years after the POC was filed, the FOMB has never been able to tell the undersigned—in a definitive way—whether the MTA is or is not

² “Autoridad de Transporte Marítimo” in Spanish.

part of the Commonwealth for purposes of these Title III proceedings. In an abundance of caution, Creditors have refrained for all this time from communicating directly with the MTA in order to avoid an allegation that the § 362 stay has been violated.

7. To the extent the FOMB affirmatively represents that the MTA is not a debtor or part of the Commonwealth for purposes of these Title III cases, **without any caveats or reservations**, Creditors have no objection to the disallowance of POC No. 87279 and reserve their right to initiate any collection efforts directly from the MTA, which logically would not violate 11 U.S.C. § 362. However, to this date the FOMB has made no such representation and the undersigned's attempts to reach an understanding in this regard with the FOMB's counsel without the need of a formal response were unfortunately not fruitful. If the FOMB is not able to represent, **without any reservations**, that the MTA is not part of the Commonwealth for purposes of these Title III cases, then its objection would lack a proper basis and should be denied.

WHEREFORE, Creditors Luis Manuel Ramírez-Pérez and José Luis Ramírez-Pérez respectfully request that, prior to determining whether to allow or disallow POC No. 87279, the Court require the FOMB to represent, **for the record**, whether the MTA is or is not part of the Commonwealth for purposes of these Title III proceedings. To the extent the FOMB affirmatively represents that the MTA is not part of the Commonwealth in connection with these Title III proceedings, without any reservations, then Creditors would have no objection to the disallowance of POC No. 87279. In the alternative the FOMB's objection to POC No. 87279 should be denied for lack of a proper foundation.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 1st day of August, 2021.

I HEREBY CERTIFY that on this same date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to all counsel of record. I also hereby certify that the foregoing was served pursuant to the Sixteenth Amended Notice, Case Management and Administrative Procedures Order (Docket No. 20190).

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